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09/900,569	07/05/2001	Tetsuo Ogino	0015049/279(128)	4089

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EXAMINER

NGUYEN, CINDY

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,569

Applicant(s)

OGINO ET AL.

Examiner

Cindy Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 04 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is in response to application filed on 07/05/01 in which claims 31-58 are presented for examination.

1. *Priority(IDS)*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

2. *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains single sentence.

Correction is required.

3. *Claim Objections*

Claim 57 is objected to because of the following informalities: There is an error typing "Teh" instead of "The". Appropriate correction is required.

4. *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 31, 35, 37-40, 43-46, 48-51, 55, 57 and 58 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanaka (U.S 6564256).

Regarding claims 31 and 39, Tanaka discloses: A medical image service (1, fig. 1 and corresponding text, Tanaka) method for use by a network (col. 5, lines 33-40, Tanaka);

a transmitting subscriber connected to said network (col. 5, lines 47-55, Tanaka);

a receiving subscriber connected to said network (T1..Tn, fig. 1 and corresponding text, Tanaka);

a server connected to said network (P1, fig. 1 and corresponding text, Tanaka), wherein said server registers (col. 6, lines 18-35, Tanaka) and stores medical image (col. 4, lines 13-19, Tanaka) or imaging condition (col. 6, lines 5-8, Tanaka) transmitted by said transmitting subscriber in a data base and delivers said medical image or imaging condition to said receiving subscriber (col. 6, lines 5-17, Tanaka).

Regarding claim 40, Tanaka discloses: A medical service system comprising:

at least one subscriber permitted to send and receive medical images via a network (T1..Tn, fig. 1 and corresponding text, Tanaka); and

at least one server for applying image processing to said medical images and for sending processed medical images back to said subscriber (1, fig. 1 and col. 6, lines 38-48, Tanaka).

Regarding claim 43, all the limitations of this claim have been noted in the rejection of claim 40 above, In addition, Tanaka discloses: wherein said system comprises two or more subscribers (T1... Tn, fig. 1 and corresponding text, Tanaka).

Regarding claim 44, all the limitations of this claim have been noted in the rejection of claim 40 above, In addition, Tanaka discloses: comprising a plurality of said servers and wherein processing is shared by said plurality of servers (1, 2, fig. 1 and corresponding text, Tanaka).

Regarding claim 45, all the limitations of this claim have been noted in the rejection of claim 42 above, In addition, Tanaka discloses: wherein at least one of said image sending subscriber and said image receiving subscriber specifies type of image processing to be communicated to said server (col. 5, lines 56 to col. 6, lines 5, Tanaka).

Regarding claim 46, all the limitations of this claim have been noted in the rejection of claim 42 above, In addition, Tanaka disclose: wherein said server informs said image sending subscriber and said image receiving subscriber of type of image processing to be applied (col. 5, lines 56 to col. 6, lines 5, Tanaka).

Regarding claim 48, all the limitations of this claim have been noted in the rejection of claim 42 above, In addition, Tanaka discloses: wherein said image sending subscriber or said

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image receiving subscriber sends a request for medical images subjected to image processing, to said server and receives said medical images via said network (col. 6, lines 19-36, Tanaka).

Regarding claim 49, all the limitations of this claim have been noted in the rejection of claim 40 above, In addition, Tanaka discloses: wherein said server stores each medical image in at least one form before image processing (col. 5, lines 64-65, Tanaka) and in at least one form after image processing (col. 6, lines 25-37, Tanaka).

Regarding claim 50, all the limitations of this claim have been noted in the rejection of claim 48 above, In addition, Tanaka disclose: wherein said request is for only part or all of said medical images, and said only part or all of said medical images being sent via said network (col. 7, lines 46-65, Tanaka).

Regarding claim 51, all the limitations of this claim have been noted in the rejection of claim 42 above, In addition, Tanaka discloses: wherein said server polls said image sending subscriber and said image receiving subscriber via said network to collect medical images before image processing (col. 7, lines 45 to col. 8, lines 13, Tanaka).

Regarding claims 35 and 55, all the limitations of these claims have been noted in the rejection of claims 31 and 42 above, In addition, Tanaka discloses: wherein said server provides a backup of said medical image registered in said database (1, fig. 1 and corresponding text, Tanaka).

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Regarding claims 37 and 57, all the limitations of these claims have been noted in the rejection of claims 31 and 42 above, In addition, Tanaka disclose: wherein said server transmits via said network, to a delivery destination, a medical image and imaging condition for said medical image (col. 6, lines 5-17, Tanaka).

Regarding claims 38 and 58, all the limitations of these claims have been noted in the rejection of claims 31 and 40 above, In addition, Tanaka disclose: wherein said transmitting subscriber and said receiving subscriber is a software executing subscriber running medical software (col. 6, lines 38-48, Tanaka); and wherein said server manages medical software and registers said medical software in said database (col. 7, lines 8-30, Tanaka) and delivers said medical software to said software executing subscriber (col. 8, lines 20-25, Tanaka).

6. *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 41, 42 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (U.S 6564256) in view of Sato et al. (U.S 5911687) (Sato).

Regarding claim 41, all the limitations of this claim have been noted in the rejection of claim 40 above, However, Tanaka didn't disclose: wherein said subscriber comprises an image registering subscriber permitted to register medical images and an image receiving subscriber permitted to receive medical images. However, Sato disclose: wherein said subscriber comprises an image registering subscriber permitted to register medical images (col. 9, lines 4-10, Sato) and an image receiving subscriber permitted to receive medical images (col. 9, lines 4-19, Sato). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include image registering subscriber permitted to register medical images and an image receiving subscriber permitted to receive medical images in the system of Tanaka as taught by Sato. The motivation being to enable the user have permission to register for transferring and receiving medical image over network it helps hospitals quickly have patient information so they understand the patient's condition and do the treatment better.

In addition, Tanaka/Sato disclose: wherein said server registers medical images sent by said image registering subscriber in said database and delivers said medical images to said image receiving subscriber (col. 6, lines 5-17, Tanaka).

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Regarding claim 42, all the limitations of this claim have been noted in the rejection of claim 40 above, In addition, Tanaka /Sato disclose: wherein said subscriber comprises an image sending subscriber permitted to send medical images via said network (col. 12, lines 39-48, Sato); and an image receiving subscriber permitted to receive medical images via said network (col. 9, lines 4-19, Sato); and wherein said server comprises means for applying image processing to medical images sent by said image sending subscriber, and means for sending the processed medical images to said image receiving subscriber (col. 7, lines 46-65, Tanaka).

Regarding claim 47, all the limitations of this claim have been noted in the rejection of claim 42 above, In addition, Sato/Tanaka disclose: wherein said server establishes communication with said image sending subscriber (col. 12, lines 49-56, Sato) or image receiving subscriber when said image processing is completed (col. 12, lines 49-54, Sato), and sends said medical images subjected to image processing to said image sending receiver or said image receiving subscriber (col. 13, lines 20-28, Sato).

8. Claims 32, 36, 52 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (U.S 6564256) in view of Sato et al. (U.S 5911687) (Sato) and further in view of Roewer (U.S 5734915).

Regarding claims 32 and 52, all the limitations of these claims have been noted in the rejection of claims 31 and 42 above, respectively. However, Sato/ Tanaka didn't disclose: wherein said medical image is associated with at least one image selected from the group consisting of images of MRI, X-ray CT, ultrasound, PET, digitized X-ray and CR. On the other

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hand, Roewer discloses: wherein said medical image is associated with at least one image selected from the group consisting of images of MRI, X-ray CT, ultrasound, PET, digitized X-ray and CR (col. 45, paragraph # 6, Roewer). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the group of images of MRI, X-ray CT, ultrasound, PET, digitized X-ray and CR in the combination system of Sato/Tanaka as taught by Roewer. The motivation being to enable the user apply many kind of image for transferring and receiving medical image over network it help hospitals quickly have patient information so they understand the patient's condition and do the treatment better.

Regarding claims 36 and 56, all the limitations of these claims have been noted in the rejection of claims 31 and 42 above, respectively. In addition, Sato/ Tanaka/Roewer disclose: wherein said receiving subscriber sends format information, comprising image identifier information, to a hard copy device (col. 10, lines 49-57, Roewer); and wherein said hard copy device obtains delivery of a medical image corresponding to said image identifier information from said server (col. 10, lines 34-48, Roewer) via said network and provides hard copy of said medical image (col. 11, lines 45-51, Roewer). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the group of images of MRI, X-ray CT, ultrasound, PET, digitized X-ray and CR in the combination system of Sato/Tanaka as taught by Roewer. The motivation being to enable the user receives medical images by hard copy so help doctors quickly have patient information so they understand the patient's condition and do the treatment better.

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9. Claim 33, 34, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (U.S 6564256) in view of Sato et al. (U.S 5911687) (Sato) and further in view of Ballantyne et al. (U.S 5867821) (Ballantyne).

Regarding claims 33 and 53, all the limitations of these claims have been noted in the rejection of claims 31 and 42 above, respectively. However, Tanaka/ Sato didn't disclose: wherein said medical image is compressed in data size when transmitted on said network; and wherein transmitted data is decompressed into an original data on a receiving end (col. 9, lines 40-57, Balantyne). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include medical image is compressed in data size when transmitted on said network and wherein transmitted data is decompressed into an original data on a receiving end in the combination system of Tanaka/ Sato as taught Balantyne. The motivation being to enable to compress data transfer to and from the subscribers for minimize data loading on the network and save time for transfer medical image it helps hospitals quickly have patient information.

Regarding claims 34 and 54, all the limitations of these claims have been noted in the rejection of claims 31 and 42 above, respectively. In addition, Tanaka/ Sato /Balantyne disclose: wherein said server checks legitimacy of said transmitting subscriber or said receiving subscriber (col. 7, lines 66 to col. 8, lines 65, Balantyne). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include server checks legitimacy of said transmitting subscriber or said receiving subscriber in the combination system of Tanaka/

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Sato as taught Balantyne. The motivation being to enable to protect the medical images information so also authorizers can access database.

10. Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sloane (U.S 5619991). Delivery of medical services using electronic data communications.


Kotake et al. (U.S 5581460). Medical diagnostic report forming apparatus capable of attaching image data on report.


11. Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 703-305-4698. The examiner can normally be reached on M-F: 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.


Cindy Nguyen
August 4, 2003


SAFET METJAHIC
SUPERVISOR
TECHNOLOGY CENTER